

Message Text

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ACTION AID-59

INFO OCT-01 EUR-25 EA-11 ADP-00 FRB-02 RSR-01 EB-11 IGA-02

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FM AMEMBASSY JAKARTA

TO SECSTATE WASHDC 6789

AMEMBASSY THE HAGUE

AMCONSUL AMSTERDAM

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AMSTERDAM FOR U. S. DEL IGGI

E. O. 11652: N/ A

TAGS: EFIN, ID

SUBJECT: IMF STANDBY

REF: STATE 085620

1. EMBASSY OBTAINED TEXT MAY 3 REGULATIONS CONTROLLING EXTERNAL BORROWING BY PUBLIC AGENCIES (REFTEL). PENDING FULL TRANSLATION WHICH IN PROCESS, KEY POINTS APPEAR TO BE AS FOLLOWS:

2. PROVISIONS RETROACTIVE TO OCT 12, 1972.

3. REGULATION APPLIES TO " LOANS REPAYABLE TO NON- RESIDENTS IN FOREIGN EXCHANGE AS WELL AS IN RUPIAHS ... WHETHER ON THE BASIS OF CREDIT AGREEMENT OR ON THE ISSUANCE OF BONDS, PROMISSORY NOTES, GUARANTEES AND OTHER FORMS OF LOANS AND OBLIGATIONS WHICH ARE IN COMMON USE, INCLUDING AMONG OTHERS ' CHARTER PURCHASE', ' LEASE PURCHASE', ' DEFERRED PAYMENT PURCHASE ARRANGEMENT', ETC."

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RM REGULATION DOES NOT COVER FOREIGN LOANS WITH MATURITY OF LESS THAN ONE YEAR (UNLESS CREDITS REVOLVE SO EFFECTIVE MATURITY EXCEEDS ONE YEAR), NOR DOES IT APPLY TO DONOR GOVERNMENT CREDITS GRANTED WITHIN FRAMEWORK OF IGGI.

5. APPLICATIONS FOR FOREIGN LOANS BY A STATE AGENCY SHOULD BE SUBMITTED TO FINANCE MINISTER WITH COPIES TO MINISTER OF STATE FOR ECONOMY, FINANCE AND INDUSTRIES. FINANCE MINISTER GRANTS APPROVAL IN WRITING AFTER CONSULTING WITH MINISTER OF STATE.

6. AFTER APPROVAL, LOAN RECIPIENT SHALL SUBMIT LOAN DOCUMENTS TO MINISTRY OF FINANCE AND BANK INDONESIA FOR SCRUTINY.

7. APPLICATIONS FOR LOANS BY STATE BANKS SHALL FIRST BE SUBMITTED TO BANK INDONESIA, WHICH IN TURN REQUESTS APPROVAL FROM MINISTRY OF FINANCE.

8. COMMENT: THESE REGULATIONS PROVIDE SIGNIFICANT AND USEFUL DETAIL ON TYPES OF TRANSACTIONS COVERED, MOST NOTABLY LOOPHOLE CASE OF RUPIAH OBLIGATIONS TO FOREIGN CREDITORS. CONSPICUOUSLY MISSING HOWEVER, IS ANY PROVISION MAKING INVALID ANY CREDITS TRANSACTED WITHOUT AUTHORIZATIONS REQUIRED BY DECREE 59 OR ITS IMPLEMENTING REGULATIONS, OR ANY PENALTY APPLICABLE TO FAILURE IN COMPLIANCE WITH REGULATIONS. (SUCH PROVISIONS WHICH WOULD GREATLY ENHANCE ENFORCEABILITY OF DECREE HAD EARLIER BEEN EXPECTED IN FINAL REGS.) THIS OMISSION HAS PARTICULAR SIGNIFICANCE SINCE WE UNDERSTAND ONE OF MAJOR PROBLEMS LAST YEAR WAS BELIEF BY PERTAMINA OFFICIALS THAT, IF ONLY PERTAMINA HAD AUTHORIZATION OF PRESIDENT SUHARTO (ORAL OR OTHERWISE), APPROVAL OF FINANCE AND OTHER MINISTRIES OR BOARD OF COMMISSIONERS NOT REQUIRED. IN SUM, REGULATIONS DO APPEAR TO TIGHTEN UP SAFEGUARDS BUT REAL EFFECTIVENESS NOW APPEARS DEPEND HEAVILY ON WHETHER FINANCE, BOARD OF COMMISSIONERS AND PERTAMINA CAN DEVELOP SATISFACTORY WORKING RELATIONSHIP. TOUSSAINT

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